

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

A.D. and M.D., *individually and on behalf*
of D.A., a Minor,

Plaintiffs,

v.

UPPER MERION AREA SCHOOL
DISTRICT,

Defendant.

CIVIL ACTION

NO. 21-5468

ORDER

AND NOW, this 28th day of October 2022, upon consideration of the Parties' Cross-Motions for Judgment on the Administrative Record (ECF 13, 14), response briefs (ECF 16, 17) and replies (ECF 18, 19), and after a careful review of the underlying record and Hearing Officer's Final Decision and Order (ECF 1-2), it is hereby **ORDERED** that Defendant's Motion is **GRANTED IN PART and DENIED IN PART** and that Plaintiffs' Motion is **GRANTED IN PART and DENIED IN PART** as follows:

1. To the extent Plaintiffs challenge the decision of the Hearing Officer with respect to the 2019–2020 school year and Extended School Year services for the Summer of 2020, Plaintiffs' Motion is **DENIED**. The decision of the Hearing Officer is **AFFIRMED**, Defendant's Motion is **GRANTED** and judgment is **ENTERED** in favor of Defendant on claims relating to this period.
2. To the extent Plaintiffs challenge the decision of the Hearing Officer with respect to periods of the 2020–2021 school year—the first two weeks of school

and a period between Thanksgiving and the New Year—when the District offered only virtual instruction, Plaintiffs’ Motion is **GRANTED**. The decision of the Hearing Officer is **VACATED**, Defendant’s Motion is **DENIED** and judgment is **ENTERED** in favor of Plaintiffs with respect to these periods.

3. To the extent Plaintiffs challenge the decision of the Hearing Officer with respect to the remainder of the 2020–2021 school year, Plaintiffs’ Motion is **DENIED**. The decision of the Hearing Officer is **AFFIRMED**, Defendant’s Motion is **GRANTED** and judgment is **ENTERED** in favor of Defendant with respect to this period.
4. The Parties are to submit supplemental briefing on the issues of (1) the number of school days when the District offered only virtual instruction during the period beginning around Thanksgiving of 2020 and (2) the proper method for calculating the compensatory education award for that period and the first two weeks of the 2020–2021 school year. The Parties’ briefs are not to exceed ten (10) double-spaced pages and shall be submitted on or before **November 28, 2022**.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.